IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO.8421 OF 2005 .

Canara Bank ... Petitioner.
V/s.
M/s Investment Builders ... Respondents.

Shri P.K. Hushing for the petitioner.

Shri M.N. Kania for the respondents.

CORAM : V.C.DAGA, J.

DATED : 21.12.2005.

P.C. :

. Heard rival parties.

2. During the course of hearing, learned Counsel for the respondent pointed out that in both the suits filed against the Bank, evidence of the plaintiff has already been recorded. What is remaining is the evidence of the defendant, which the trial Court can record with expeditious despatch. He submits that considering the stage of the suits it would not be in the interest of justice to stay the progress of the suits. In his submission, interest of justice lies in directing expeditious trial of the suits.

3. Learned Counsel for the respondent further submits that the impugned order cannot be said to be a perverse order. That the trial Court has taken into account all the facts and circumstances of the

case and has reached to a conclusion that the conditional application for surrender given by the petitioner is not bonafide, since surrender is circumscribed by number of conditions which are difficult to implement and/or follow.

4. Without going into the niceties of the right to surrender, it will be in the interest of justice to direct the trial Court to record evidence with expeditious despatch after winter vacation, on day to day basis with further direction to dispose of both the suits as expeditiously as possible on or before 31st March 2006.

5. The trial Court shall not grant any unnecessary adjournment to either of the parties unless trial Court feels that adjournment is must in the interest of justice. In the result, petition stands disposed of with no order as to costs.

. Parties to act on authenticated copy of this order. Parties undertake to communicate this order to the trial Court.